

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE**

IN RE:

**JENI RHEA GILLESPIE
125 LAKEVIEW CIRCLE
TENNESSEE RIDGE, TN 37179**

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CASE NO. 13-10249

**Chapter 13
JUDGE LUNDIN**

SSN: xxx-xx-3714

Debtor

Adversary Case No.

Jeni Rhea Gillespie, Debtor

Plaintiff,

VS.

Bank of America, NA

Defendant.

COMPLAINT TO DECLARE LIEN VOID

Comes now, Jeni Rhea Gillespie, Debtor, by and through counsel, and files this Complaint to Determine Validity, Priority or extent of lien and secured status and other relief and in support thereof states as follows:

I. JURISDICTIONAL STATEMENT

1. This is an adversary proceeding brought pursuant to Rule 7001 of the Federal Rule of Bankruptcy Procedure.
2. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §157 and §1334 and 11 U.S.C. §105.
3. Venue is proper under 29 U.S.C. §1409.
4. This case relates to the bankruptcy case of In re Jeni Rhea Gillespie, Case No. 13-10249, filed in the United States Bankruptcy Court for the Middle District of Tennessee on November 27, 2013. This is a core proceeding.
5. Pursuant to 11 U.S.C. §105(a), this Court may issue any order, process or judgment necessary appropriate to carry out the provisions of this title

II. DEBTOR'S AND PLAINTIFF'S CAUSE OF ACTION

1. The Debtor scheduled a secured obligation to Bank of America, NA for a debt which the Debtor would assert is secured by a lien on a 2010 Nissan Altima.
2. Bank of America, NA never filed a Proof of Claim or demonstrated any secured interest in said vehicle.
3. Debtor's attorney has made several attempts to obtain the necessary supporting documents from the Creditor, without success, in an effort to file a proof of claim with respect to said obligations.
4. Nonetheless, Creditor has failed and continues to fail to either file a claim, or provide supporting documents so that claim can be filed by Debtor's counsel.

5. The Debtor has now been Discharged in her Chapter 13 case on February 25, 2016.

WHEREFORE, PREMISES CONSIDERED, Debtor and Plaintiff prays:

1. That the Court Declare the Lien of Bank of America, NA with respect to said vehicle be void, and declare the underlying obligation to be unsecured, and order that the Debtor be granted absolute title to the collateral, free of any liens.
2. That the Court award Debtor damages in the amount of \$5,000.00 and such attorneys fee and expenses as are incurred by them in this matter.
3. That the Court provide other relief as may be just and proper.

Date: February 25, 2016

Signature: /s/ Robert H. Moyer
Robert H. Moyer
408 Franklin Street
Clarksville, TN 37040
931-221-0010
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Certificate of Service

The undersigned hereby certifies that a copy of the foregoing Complaint was transmitted electronically by the CM/ECF system and by U.S. postage to the following on the 25th day of February, 2016, Jeni Rhea Gillespie, 125 Lakeview Circle, Tennessee Ridge, TN 37179; U.S. Trustee, 318 Customs House, 701 Broadway, Nashville, TN 37203; Henry E. Hildebrand, Chapter 13 Trustee, P.O. Box 340019, Nashville, TN 37203-0019; Bank of America, N.A., Legal Order Processing, P.O. Box 15047, Wilmington, DE 19850-5047; Bank of America, N.A., 100 North Tryon Street, Charlotte, NC 28202; Bank of America, N.A., 9000 Southside Blvd., Bldg. 600, Jacksonville, FL 32256; on this February 25th, 2016.

Signature: /s/ Robert H. Moyer
Robert H. Moyer